

AG Contract No. KR95 2683TRN  
ADOT ECS File No. JPA 95-214  
Project: H3606 01C  
Section: Jct. US-60 MP 324

INTERGOVERNMENTAL AGREEMENT  
BETWEEN  
THE STATE OF ARIZONA  
AND  
THE WHITE MOUNTAIN APACHE TRIBE

THIS AGREEMENT is entered into 27 March, 1996,  
pursuant to Arizona Revised Statutes, Sections 11-951 through 11-  
954, as amended, between the STATE OF ARIZONA, acting by and  
through its DEPARTMENT OF TRANSPORTATION (the "State") and WHITE  
MOUNTAIN APACHE TRIBE, acting by and through its TRIBAL COUNCIL  
(the "Tribe").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes  
Section 28-108 to enter into this agreement and has by  
resolution, a copy of which is attached hereto and made a part  
hereof, resolved to enter into this agreement and has delegated  
to the undersigned the authority to execute this agreement on  
behalf of the State.

2. The Tribe is empowered by Council Resolution to enter  
into this agreement, a copy of which is attached hereto and made  
a part hereof, and has authorized the undersigned to execute this  
agreement on behalf of the Tribe.

3. The State and the Tribe desire to construct, operate and  
maintain new highway lighting warranted on US-60 at the  
intersection of SR-73 at Carrizo Junction, hereinafter referred  
to as the Project, for the safety and benefit of the motoring  
public.

THEREFORE, in consideration of the mutual agreements expressed  
herein, it is agreed as follows:

NO. <u>20604</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>03/27/96</u>
<u>Gene Lee Hull</u> Secretary of State
By <u>Wicky Shaenwood</u>

## II. SCOPE OF WORK

### 1. The State will:

a. Provide to State standards design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the Project. Administer same and make all payments to the contractor(s). Be responsible for the cost of the Project. Be responsible for any contractor claims for extra compensation.

c. Upon completion, approve and accept the Project.

### 2. The Tribe will:

Upon completion and acceptance of the Project by the State, provide highway lighting maintenance and electrical energy to operate the highway lighting.

## III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project; provided, however, that this agreement, except any provisions herein for maintenance and electrical energy, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. Applicable laws of the State, Federal and Tribal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes relating to this agreement, compliant with applicable laws and regulations of the State, Federal and Tribal government, and acceptable to the State and the Tribe.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

White Mountain Apache Tribe  
Chairman  
Box 700  
Whiteriver, AZ 85941


7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State and the Tribe to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

WHITE MOUNTAIN APACHE TRIBE

STATE OF ARIZONA  
Department of Transportation

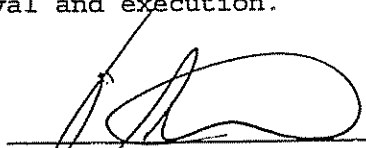
By   
RONNIE LUPE, Chairman

By   
CHARLES K. EATON  
State Traffic Engineer

RESOLUTION

BE IT RESOLVED on this 12th day of January 1996, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the White Mountain Apache Tribe, for the purpose of defining responsibilities for the design, construction and maintenance of highway lighting on US-60 at the intersection of SR-73 at Carrizo Junction.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the State Traffic Engineer for approval and execution.

  
\_\_\_\_\_  
for LARRY S. BONINE  
Director

**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**

**WHEREAS,** The Arizona Department of Transportation has responded to a Tribal proposal to install lighting at the intersection of U.S. 60 and State Route 73 at Carrizo Junction; and

**WHEREAS,** A copy of the proposed Intergovernmental Agreement between the State of Arizona and the White Mountain Apache Tribe provides that the Arizona Department of Transportation will install the lights as part of an upcoming project and that the Tribe will agree to assume maintenance of lights and pay the power bills; and

**WHEREAS,** The Tribal Council approves of the agreement attached to this Resolution and incorporated by reference herein.


**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the Intergovernmental Agreement between the State of Arizona and the White Mountain Apache Tribe for project H360601C in the form and content attached hereto.

**BE IT FURTHER RESOLVED** by the Tribal Council that it hereby authorizes and direct Chairman Ronnie Lupe to execute the attached Intergovernmental Agreement for the purposes contained therein to provide for new highway lighting at the intersection of S.R. 73 and U.S. 60 at Carrizo Junction for the safety and benefit of the motoring public.

The foregoing resolution was on January 23, 1996, duly adopted by a vote of eight for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section (a), (b), (h), (I), (j), (k), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council

APPROVAL OF  
THE WHITE MOUNTAIN APACHE TRIBE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the WHITE MOUNTAIN APACHE TRIBE and declare this agreement to be in proper form and within the powers and authority granted to the Tribe under the laws of the Tribe.

DATED this 23rd day of JANUARY, 1996.

Robert C. Beauchli

Tribal Attorney



STATE OF ARIZONA

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GRANT WOODS  
ATTORNEY GENERAL

## INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR95-2683-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 21st day of March, 1996.

GRANT WOODS  
Attorney General

A handwritten signature in black ink, appearing to read "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH  
Assistant Attorney General  
Transportation Section

JRR:lsr  
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